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The South Carolina Office of Regulatory Staff, (“ORS”) by the filing of this Petition, would respectfully show and request of the Public Service Commission of South Carolina (“Commission”):

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4. The Commission granted Condor approval to expand its existing sewer service area to include the Caledonia subdivision in Anderson County, South Carolina (“Caledonia”) on February 4, 2016. Docket No. 2015-24-S, Order No. 2016-74.

5. Pursuant to S.C. Code Ann. §58-5-210 *et seq.*, the Commission is vested with the jurisdiction to supervise and regulate the rates and services of every public utility in South Carolina as defined under S.C. Code Ann. §58-5-10 (4).

6. The Commission requires approval of all rates proposed to be put into effect by any utility in accordance with S.C. Code Ann. Reg. 103-503.(A) and (B) which state that:

- A. *No schedule of rates, contracts, or rules and regulations, shall be changed until after the proposed change has been approved by the commission.*
- B. *All rates, contract forms, and rules and regulations, proposed to be put into effect by any utility as defined in 103–502(11) shall be first approved by this commission before they shall become effective, unless they are exempt from such approval by statute or other provision of law.*

7. ORS provided the Commission with a detailed review of the approved schedule of rates for Rose Hill and Caledonia in its March 8, 2021 Status Report to the Commission in Docket No. 2020-275-S (“Status Report”), which described specific requirements established by the Commission to adjust the rates in each subdivision and summarized past invoice data for each subdivision.¹ A copy of ORS’s Status Report is attached as Exhibit A.

8. Commission Order No. 2012-659 in Docket No. 2012-101-S approved a monthly fee of \$30.00 per home for Rose Hill (“RH Monthly Fee”). The RH Monthly Fee consists of a \$10.00 per home per month operation and maintenance fee (“RH Condor Fee”) and a \$20.00 per home per month wastewater treatment fee (“RH WW Fee”). The RH WW Fee is collected by

¹ <https://dms.psc.sc.gov/Attachments/Matter/1a3835ff-e7f8-4a9a-a50f-7237cdc6b647>

Condor and paid to Easley Combined Utilities (“ECU”). As of March 31, 2021, Condor provided service to 262 homes in the Rose Hill subdivision. Under the terms of Order No. 2012-659, Commission approval is required to increase the RH Monthly Fee, including either the RH Condor Fee or RH WW Fee.

9. Condor has not received Commission approval to increase the RH Monthly Fee following Commission Order No. 2012-659. Therefore, the approved RH Monthly Fee has been \$30.00 per home per month since Commission Order No. 2012-659 was issued to the present.

10. Condor charged customers a RH Monthly Fee greater than \$30.00 per home per month since at least December 2015. Based on customer invoices, Condor charged a higher-than-approved RH Condor Fee from May 2020 through January 2021 and has continuously charged customers a higher-than-approved RH WW Fee since December 2015. To date, Condor is still charging customers an unapproved RH Monthly Fee due to the higher than approved RH WW Fee.

11. A detailed summary of invoices for Rose Hill is attached hereto as Exhibit B.² Exhibit B illustrates total overcharges to customers that reside in Rose Hill of \$79,121.90 compared to the approved RH Monthly Fee.

12. Commission Order No. 2016-74 in Docket No. 2015-24-S approved a monthly fee of \$35.00 per home per month for Caledonia (“Caledonia Monthly Fee”). Under Order No. 2016-74, the Caledonia Monthly Fee consists of a \$12.00 per home per month operation and maintenance fee (“Caledonia Condor Fee”) and an \$23.00 per home per month wastewater treatment fee (“Caledonia WW Fee”) The Caledonia WW Fee is collected by Condor and paid to ECU. As of March 31, 2021, Condor provided service to 204 homes in the Caledonia subdivision.

² Invoice data provided by Condor in response to ORS’s Second and Continuing Request for Books, Records, and Other Information (“AIR 2”) in Docket No. 2020-275-S and verified by ORS through Condor’s response to ORS’s Request for Production of Books, Records and Other Information in Furtherance of an Examination of Condor Environmental, Inc. dated March 16, 2021, Question 1. Overcharges were calculated by ORS.

However, Order No. 2016-74 permits Condor to “pass-through” any increases from ECU through the Caledonia WW Fee. However, Condor must first provide notice to customers, the Commission, and ORS prior to increasing the Caledonia WW Fee portion of the Caledonia Monthly Fee.³

13. Condor filed notices from ECU to Condor and from Condor to Caledonia dated February 12, 2020 related to an increase to the Caledonia WW Fee with the Commission on December 15, 2020 in Docket No. 2020-275-S.⁴ ORS is not aware of any other prior notice related to an increase to the Caledonia WW Fee being filed with the Commission. Therefore, prior to December 15, 2020, the approved Caledonia Monthly Fee was \$35.00. Since December 15, 2020 the approved Caledonia Monthly Fee is \$37.52 per home per month.

14. Condor has charged customers a Caledonia Monthly Fee greater than that approved by the Commission for invoices dated May 2016 through November 2020. This consisted of a higher Caledonia WW Fee and a higher Caledonia Condor Fee for invoices dated May 2020 through October 2020. Condor is currently charging customers the approved Caledonia Monthly Fee following Condor’s filing of the proper notice for the ECU wastewater treatment fee of \$25.52 per home per month on December 15, 2020 in Docket No. 2020-275-S. A detailed listing of invoices for Caledonia is attached hereto as Exhibit C,⁵ which illustrates total overcharges to customers that reside in Caledonia of \$13,509.91 compared to the approved Caledonia Monthly Fee.

15. Condor provided ORS copies of past notices from ECU related to increases to the ECU wastewater treatment fee dating back to April 1, 2013.⁶ ORS confirmed that any past increase

³ This pass-through mechanism only applied to Caledonia and was not applicable to or approved for Rose Hill.

⁴ <https://dms.psc.sc.gov/Attachments/Matter/c93b225e-4e3f-4d89-b5f1-e6c96f2efc90>

⁵ Invoice data provided by Condor in response to AIR 2 in Docket No. 2020-275-S and verified by ORS through Condor’s response to ORS’s Request for Production of Books, Records and Other Information in Furtherance of an Examination of Condor Environmental, Inc. dated March 16, 2021, Question 1. Overcharges were calculated by ORS.

⁶ Response to ORS’s Request for Production of Books, Records and Other Information in Furtherance of an Examination of Condor Environmental, Inc. dated March 16, 2021, Question 3

to the Caledonia WW Fee within the Company's records coincided with a notice from ECU to Condor. However, other than the notice dated February 12, 2020, which was not filed with the Commission until December 15, 2020, no notices from ECU have been filed by Condor with the Commission.

16. ORS cannot conclusively determine that any notices were provided to customers prior to 2020.

17. The Company stated that "[b]efore 2020, ECU's notices were simply forwarded to the HOAs."⁷ However, the Company was not able to provide documentation of the notices to customers as requested by ORS.

18. Condor failed to comply with the provisions of S.C. Code Ann. Reg. 103-503.(A) and (B), Commission Order No. 2012-659, and Commission Order No. 2016-74 specific to the rates charged by Condor to customers that reside in Rose Hill and Caledonia.

19. The Commission's regulations address the adjustment of bills due to a customer being overcharged. S.C. Code Ann. Reg. 103-533 states, in part, regarding overcharges that:

If it is found that a utility has directly or indirectly, by any device whatsoever, demanded, charged, collected or received from any customer a greater or lesser compensation for any service rendered or to be rendered by such utility than that prescribed in the schedules of such utility applicable thereto, then filed in the manner provided in Title 58 of the South Carolina Code of Laws; or if it is found that any customer has received or accepted any service from a utility for a compensation greater or lesser than that prescribed in such schedules; or if, for any reason, billing error has resulted in a greater or lesser charge than that incurred by the customer for the actual service rendered, then the method of adjustment for such overcharge or undercharge shall be provided by the following:

1. *Customer Inadvertently Overcharged. If the utility has inadvertently overcharged a customer as a result of a misapplied schedule or any other human or machine error, the utility shall at the customer's*

⁷ Response to ORS's Request for Production of Books, Records and Other Information in Furtherance of an Examination of Condor Environmental, Inc. dated March 16, 2021, Question 2

option credit or refund the excess amount paid by that customer or credit the amount billed as provided by the following:

- (a) If the interval during which the customer was overcharged can be determined, then the utility shall credit or refund the excess amount charged during the entire interval provided that the applicable statute of limitations shall not be exceeded.*
- (b) If the interval during which the customer was overcharged cannot be determined, then the utility shall credit or refund the excess amount charged during the twelve-month period preceding the date when the billing error was discovered.*

...

- 3. Customer Willfully Overcharged. If the utility has willfully overcharged any customer, the utility shall refund the difference, plus interest, as prescribed by the commission for the period of time that can be determined that the customer was overcharged.*

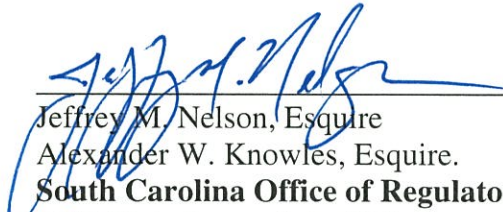
20. Based on information provided by the Company, ORS cannot conclusively determine whether the adjustment of bills due to customers being overcharged should be in accordance with S.C. Code Ann. Reg. 103-533.1 or 103-533.3.

21. The Company previously increased rates without Commission approval in the Ascot subdivision.⁸ This prior increase in rates violated the notice and justification conditions in Order No. 2016-74 and Order No. 2012-659. Under these prior Commission Orders, and its obligations as a regulated utility, the Company either was or should have been aware that it was required to obtain Commission approval prior to any adjustment in its schedule of rates.

WHEREFORE, ORS prays that the Commission:

⁸ See Docket No. 2010-262-WS

1. Require Condor to issue refunds to Rose Hill and Caledonia for any charged Monthly Fee (i.e., either the Condor Fee or WW Fee) greater than the Commission-approved Monthly Fee for the respective subdivision.⁹
2. If the Commission prescribes the refunds should be in accordance with S.C. Code Ann. Reg. 103-533.3, also prescribe the interest rate to be applied to the overcharges.
3. Require Condor to cease charging unapproved rates to Rose Hill.
4. Grant any additional action or relief which the Commission may deem necessary or proper.



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⁹ Total refund to either subdivision will depend on the prescriptions from the Commission related to the appropriate interest rate in accordance with S.C. Code Ann. Reg. 103-533 and may require ORS to update the refund calculations through the date of the Commission order.